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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/650,173

08/29/2000

Nicholas J. Lee

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07/21/2008

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EXAMINER

OPSASNICK, MICHAEL N

ART UNIT

PAPER NUMBER

2626

NOTIFICATION DATE

DELIVERY MODE

07/21/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: NICHOLAS LEE

Application No. 09/650,173
Technology Center 2600

Mailed: July 21, 2008

Before DALE M. SHAW *Chief Appeals Administrator*.
SHAW, *Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was received at the Board of Patent Appeals and Interferences on April 9, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is

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herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

EXAMINER'S ANSWER

A review of the application reveals that the Non-Final Rejection mailed February 3, 2006 (page 2) and the Appeal Brief entered June 29, 2006 (page 7) presented the following ground rejection for review:

Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brotman et al (5917889) in view of Gould et al (6839669).

While the Examiner's Answer mailed September 17, 2007, states that "[t]he appellant's statement of the grounds of rejection to be reviewed on appeal is correct" the above-mentioned rejection is not included in any statement of rejection presented for review by the Board in the Examiner's Answer mailed September 17, 2007.

Section 1207.02 of the Manual of Patent Examining Procedure (MPEP)(Eighth Edition, Rev. 5, August 2006) states, in part:

If any rejection is withdrawn, the withdrawal should be clearly stated in the examiner's answer under *>subheading "Grounds of Rejection Withdrawn" in the section "Grounds of Rejection to be Reviewed on Appeal."< Grounds of rejection not *>specifically withdrawn by the examiner and not set forth< in the examiner's answer are usually treated >by the Board< as having been dropped, but may be considered by the Board if it desires to do so.

Clarification of the rejection is required.

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CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue and mail a revised Examiner's Answer correcting the Grounds of Rejection section; and
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

BOARD OF PATENT APPEALS
AND INTERFERENCES

DMS/tsj

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